



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL

AUDIT SERVICES

ALERT MEMORANDUM

Date: October 13, 2009

To: Philip Maestri,
Director, Risk Management Service
Office of the Secretary

From: Keith West /s/
Assistant Inspector General for Audit

Subject: Corrections Needed to Information About Department of Education Programs
Included in the *Catalog of Federal Domestic Assistance*
Control No. ED-OIG/L16J0075

The purpose of this **final alert memorandum** is to inform you about a situation needing immediate corrective action: incorrect information about Department of Education (Department) programs included in the *Catalog of Federal Domestic Assistance* (CFDA). This problem affects Department programs administered by various offices in the Department.

Background

The CFDA is a governmentwide compendium of Federal programs, projects, services, and activities that provides assistance or benefits to the American public. It contains information about approximately 1,900 financial and nonfinancial assistance programs administered by departments and establishments of the Federal Government, including 168 Department of Education programs.

The CFDA is published by the General Services Administration (GSA), under the Federal Program Information Act, Public Law 95-220, as amended by Public Law 98-169. A Web site - www.cfda.gov - is the primary means of disseminating the catalog.

For each Federal program included in the catalog, there is a section that provides overview information. An example of such a section for one Department program is provided as Attachment 1. It illustrates the kind of content presented for each program.

As an official U.S. Government publication, users regard the CFDA as an authoritative source of information. Among users of the catalog are independent auditors engaged to perform single audits required by the Single Audit Act Amendments of 1996. For example, auditors consult the

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

catalog to obtain information about a Department program identified as a major program at the entity they are auditing, but not included in the Single Audit *Compliance Supplement*, published annually by the Office of Management and Budget (OMB).¹

For several months in early 2009, the CFDA Web site was inoperative while a new CFDA system and Web site were being developed. The new system is now operative. It enables Federal agencies to input information online, and allows the public to access the CFDA online.

Condition Requiring Immediate Corrective Action

There are errors in the CFDA about aspects of Department programs. This condition initially came to our attention in mid-June 2009, when we noted the following errors:

For CFDA No. 84.390 [Vocational Rehabilitation-ARRA (Recovery Act) Program], the CFDA site stated that maintenance of effort does not apply; however, it does.

For CFDA No. 84.063 (Pell Grant Program), the CFDA says with respect to audits: "This program is excluded from coverage under OMB Circular No. A-133. Annual audits will be made." Annual audits are required, but for governmental and non-profit colleges and universities, the audit coverage is single audit coverage under OMB Circular A-133. Thus, with respect to A-133 audits, this statement was incorrect.

As of September 29, 2009, the CFDA section for CFDA No. 84.390 [Vocational Rehabilitation-ARRA (Recovery Act) Program] still incorrectly said that maintenance of effort does not apply.

As of September 29, 2009, with respect to audits, the CFDA section for CFDA No. 84.063 (Pell Grant Program) stated:

In accordance with the provisions of OMB Circular No. A-133 (Revised, June 27, 2003), "Audits of States, Local Governments, and Non-Profit Organizations," nonfederal entities that expend financial assistance of \$500,000 or more in Federal awards will have a single or a program-specific audit conducted for that year. Nonfederal entities that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in Circular No. A-133. ARRA funds are included in the regular appropriation program compliance under OMB Circular A-133.

This statement contains omissions and inaccuracies. It does not address the fact that for institutions of postsecondary education not covered under OMB Circular A-133 an annual audit is required without regard to the amount of Federal awards expended. It does not indicate that OMB Circular A-133 pertains only to governmental and non-profit entities. The second sentence conveys the idea that under Circular A-133, there may be an audit requirement in some cases for entities expending less than \$500,000, which for governmental and non-profit entities is not so.

¹ The Compliance Supplement includes coverage of Federal programs which, by their large amount of funding, are frequently expected to be identified as major programs covered in single audits. Other Federal programs not included in the Compliance Supplement may occasionally be selected as a major program for single audit purposes.

The last sentence says that “the ARRA funds are included in the regular appropriation program compliance...” which does not make sense.

On July 16, 2009, a CPA audit practitioner called OIG to inquire about the following statement in the CFDA Web site section for Department’s *Early Reading First* Program, CFDA No. 84.359:

This program is excluded from coverage under OMB Circular No. A-133. In accordance with the Education Department General Administrative Regulations (EDGAR) in 34 CFR 80, State and local governments that receive financial assistance of \$500,000 or more within the State's fiscal year shall have an audit made for that year. State and local governments that receive between \$25,000 and \$500,000 within the State's fiscal year shall have an audit made in accordance with the Appendix to EDGAR, Part 80.

The first sentence incorrectly said that coverage under OMB Circular A-133 is not applicable. The second and third sentences conveyed the idea that under OMB Circular A-133 and EDGAR, there may be an audit requirement in some cases for entities expending less than \$500,000, which is not so. We advised the CPA to ignore what was stated in the CFDA; that the single audit coverage under OMB Circular A-133, required by Department Regulations, 34 Code of Federal Regulations (C.F.R.) 80.26, was applicable.

On September 29, 2009, with respect to audits, the CFDA Web site section for the *Early Reading First* Program, CFDA No. 84.359 had been amended to read as follows:

In accordance with the provisions of OMB Circular No. A-133 (Revised, June 27, 2003), “Audits of States, Local Governments, and Non-Profit Organizations,” nonfederal entities that expend financial assistance of \$500,000 or more in Federal awards will have a single or a program-specific audit conducted for that year. Nonfederal entities that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in Circular No. A-133. State and local governments that receive between \$25,000 and \$500,000 within the State's fiscal year shall have an audit made in accordance with the Appendix to EDGAR, Part 80.

The first sentence of this revised section is correct, but the second and third sentences are not. There are no audit requirements for entities expending less than \$500,000 in Federal awards a year. A similar issue exists for the audits portion of the CFDA section for CFDA No. 84.389 (Title I Grants to LEAs, Recovery Act).

On September 29, 2009, we looked at CFDA sections pertaining to other Department Student Financial Assistance Programs and one Recovery Act program and noted incorrect descriptions of the applicable audit requirements for the following programs:

- 84.032 Federal Family Education Loans
- 84.038 Federal Perkins Loan (Perkins)
- 84.268 Direct Loans
- 84.375 Academic Competitiveness Grant (ACG)

84.376 National Science and Mathematics Access to Retain Talent (SMART) Grant
84.379 Teacher Education Assistance for College and Higher Education Grants
(TEACH Grants)

For all of these programs, the incorrect descriptions included statements that “This program is excluded from coverage under OMB Circular A-133.”

For the following programs, as of September 29, 2009, the information regarding audit requirements was also inaccurate:

84.007 Federal Supplemental Educational Opportunity Grants (FSEOG)
84.033 Federal Work-Study Program (FWS)

For these programs, the statements were not accurate with respect to audit requirements relating to for-profit entities expending awards under the program. The statements did not indicate that Department regulations and the applicable audit guide require audits of for-profit postsecondary institutions that expend less than \$500,000 of Federal awards under the Title IV programs. Also, the language incorrectly indicated that OMB Circular A-133 contains an audit requirement for covered entities (i.e., State and local government and non-profit entities) expending less than \$500,000.

For CFDA No. 84.375 (ACG) and CFDA No. 84.376 (SMART) as of September 29, 2009, the CFDA sections did not indicate that part-time students were eligible, nor did they accurately describe citizenship requirements.

When we initially looked at the CFDA Section No. 84.010 for the Department’s *Title I Grants to Local Educational Agencies*, we noted that under the “Formula and Matching Requirements Section,” in referring to maintenance of effort (MOE) requirements, the last sentence incorrectly stated: “MOE requirements are not applicable to this program.” That error had been corrected as of September 29, 2009.

Soon after errors in the CFDA first came to OIG’s attention, we discussed them on June 17, 2009, with the Department Budget Office staff member who coordinates input to the CFDA system. She informed us that when the new system became operative, issues were noted about the system that impede input of accurate information. Specifically, the new system requires “forced choices” under drop-down menus that may result in inaccurate information being presented. She also advised that corrective action was underway. When we reviewed selected CFDA sections in conjunction with preparing this alert memorandum, we did note that some changes had been made since we initially noted the problem; however, as of September 29, 2009, errors still remained.

We did not review CFDA sections other than those discussed above. Other CFDA sections relating to Department programs may or may not contain similar kinds of errors; however, given the errors noted with programs as indicated above, in our opinion, all of the CFDA sections should be reviewed. Most of the errors noted above do not relate to Recovery Act programs, but it is possible that errors could exist in CFDA sections for Recovery Act programs.

Action Needed

We are concerned that users of the CFDA could rely on erroneous information in administering or auditing Department programs, resulting in improper program administration or auditing. We are also concerned that if users relied on such erroneous information to the detriment of meeting program or auditing requirements, the erroneous information might be regarded as mitigating circumstances that could impede the Department from requiring corrective actions. Therefore, it is important that remaining errors be identified and removed from the CFDA without delay.

Recommendations

- 1.1 Each CFDA section should be reviewed by a knowledgeable program official and Office of General Counsel (OGC) attorney to identify errors and any needed corrections in information provided.
- 1.2 For each section needing corrections, the program office and OGC should coordinate with the Budget Office to promptly attempt to make the corrections in the CFDA system.
- 1.3 Include a statement at the beginning of each section of the CFDA for each Department program that: (i) the information contained in the section is provided as overview information, is not a legal description of program requirements, and is subject to change; and (ii) the information should not be relied on for purposes of program administration; for such purposes, users should refer to program statutes, regulations, program-specific policy guidance, applicable OMB circulars, and award documents and agreements, not the contents of the CFDA.
- 1.4 If the design of the CFDA system does not permit needed corrections to be made, the Department should request the GSA to remove description sections of ED programs that are erroneous from the CFDA until system modifications are made that allow for corrections to be made. If such removals are necessary, to provide information to the public in the meantime, the Department should ask the GSA to post links to Department internet sites with information about the removed programs.

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Risk Management Service Response and OIG Comments

A draft of this memorandum was provided to the Risk Management Service (RMS), Office of the Secretary, for comment. RMS agreed with our recommendations, offering some comments.

RMS agreed that, for each CFDA section that needs corrections, the program office and OGC should coordinate with the Budget Office (Budget Service, within the Office of Planning, Evaluation and Policy Development [OPEPD]) to promptly attempt to make the corrections in the CFDA system. RMS indicated that there is a Department CFDA Coordinator in the Budget Service who would ensure that corrections are made if the program offices provide a list of

needed corrections. RMS stated that this memorandum and recommendations would be most appropriately coordinated and addressed by the OPEPD/Budget Service.

We agree that the OPEPD/Budget Service has a key role in implementing necessary corrective actions. They have the experience and expertise to make changes in the CFDA system; however, program and OGC officials have the knowledge of individual Department programs necessary to identify revisions needed for individual CFDA sections. Therefore, program offices and OGC need to engage in the corrective action process. Because RMS is part of the Office of the Secretary, it is organizationally positioned to direct that corrective actions be taken by staff of all offices that need to be involved. The OPEPD/ Budget Service is not positioned to do that. Therefore, we are addressing this memorandum to RMS.

RMS also commented that the Department’s CFDA Coordinator advised RMS of her opinion that the GSA would not be inclined to remove postings of Department programs from the CFDA if system modifications were needed to allow for corrections to be made. If that is the case, RMS suggests a note be entered in a CFDA section data field which permits text entries indicating that there are inaccuracies, describing them, and pointing to where more information may be obtained. If there is no alternative, this course of action is preferable to no corrective action. However, we are concerned that any inaccurate information be included in the CFDA. Therefore, we stand by Recommendation No. 1.4 as the appropriate course of action.

The comments also convey opinions expressed to RMS that it may be misleading for OIG to say that wrong information in the CFDA could lead to improper administration or auditing. The comment states: “The program statutes, regulations, program-specific policy guidance, and OMB circulars govern grant administration, not the CFDA entry.” We do not dispute that the CFDA should not be relied on for program administration. However, we know that auditors do consult the CFDA for information about programs, especially ones not covered in the single audit *Compliance Supplement*. We do not know to what extent awardee officials might use the CFDA to obtain information for program administration, but it is possible. In the absence of a clear statement that the CFDA should not be relied on for program administration purposes, there is a risk that users could rely on incorrect information contained in it. It is a U.S. Government publication and users are likely to regard it as authoritative. In light of the comments provided by RMS, we have added Recommendation No. 1.3 that a statement be added to each CFDA section for Department programs to alert users to not rely on the CFDA for program administration purposes.

RMS’ response is included in its entirety as Attachment 2 to this memorandum.

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Corrective actions proposed (resolution phase) and implemented (closure phase) will be monitored and tracked through the Department’s Audit Accountability and Resolution Tracking System (AARTS).

Alert memoranda issued by the Office of Inspector General will be made available to members of the press and general public to the extent information contained in the memorandum is not subject to exemptions in the Freedom of Information Act (5 U.S.C. § 552).

For further information, please contact Hugh M. Monaghan, Director, Non-Federal Audits, at (215) 656-6246.

Attachments
cc:

General Counsel

Assistant Secretary or Director for:

Office of Elementary and Secondary Education

Office of English Language Acquisition, Language Enhancement, and Academic
Achievement for Limited English Proficient Students

Office of Innovation and Improvement

Office of Migrant Education

Office of Planning, Evaluation and Policy Development

Office of Postsecondary Education

Office of Safe and Drug-Free Schools

Office of Special Education and Rehabilitative Services

Office of Vocational and Adult Education

Director, Budget Service

Director, Facilities Management Services

Director, Institute of Education Sciences

Audit Liaison Officer, Risk Management Service

ATTACHMENT 1 – Example of Catalog of Federal Domestic Assistance (CFDA) Section for Department Program

Federal Pell Grant Program

Number: 84.063

Agency: Department of Education

Office: Office Of Student Financial Assistance Programs

PROGRAM INFORMATION

Authorization (040):

American Recovery and Reinvestment Act of 2009, Public Law 111-5; Higher Education Act of 1965, Title IV, Part A, Subpart 1, as amended.

Objectives (050):

To provide eligible undergraduate postsecondary students who have demonstrated financial need with grant assistance to help meet educational expenses.

Types of Assistance (060):

DIRECT PAYMENTS FOR A SPECIFIED USE

Eligibility Requirements (080)

Applicant Eligibility (081):

Undergraduate students and students pursuing a teaching certificate enrolled as regular students in an eligible program at an eligible institution of higher education and making satisfactory academic progress. The applicants must be U.S. citizens or eligible noncitizens and have a high school diploma, a GED, or demonstrate the ability to benefit from the program offered.

Beneficiary Eligibility (082):

Undergraduate students and students pursuing a teaching certificate that are U.S. citizens or eligible noncitizens and meet financial need criteria. Students must be: regular students in an eligible program and enrolled in institutions of higher education, making satisfactory academic progress. Incarcerated students, except those incarcerated in local penal facilities, are ineligible. Students must sign a statement of educational purpose, not owe a refund on a Title IV grant, and not be in default on a Title IV loan. Eligible males that are at least 18 years old and born after December 31, 1959, can receive aid only if they have registered with the Selective Service.

Credentials/Documentation (083):

No Credentials or documentation are required. This program is excluded from coverage under OMB Circular No.A-87.

Application and Award Process (090)

Award Procedure (093):

Institutions act as disbursing agents for the Department of Education. The institution that the student attends calculates and disburses the Federal Pell Grant, using a payment schedule developed by the Department of Education that determines the amount of the award based on the student's expected family contribution, cost of attendance, and enrollment status.

Assistance Consideration (100)

Length and Time Phasing of Assistance (102):

Students are currently limited to one Federal Pell Grant during any award year (July 1 through June 30). There is no funding for students to receive a second Federal Pell Grant during a single award year. Funds for one Federal Pell Grant are usually disbursed at least twice during an award year. Students may only receive a Federal Pell Grant until they have received a bachelor's degree. See the following for information on how assistance is awarded/released: Electronic transfer.

Post Assistance Requirements (110)

Audits (112):

In accordance with the provisions of OMB Circular No. A-133 (Revised, June 27, 2003), "Audits of States, Local Governments, and Non-Profit Organizations," nonfederal entities that expend financial assistance of \$500,000 or more in Federal awards will have a single or a program-specific audit conducted for that year. Nonfederal entities that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in Circular No. A-133. ARRA funds are included in the regular appropriation program compliance under OMB Circular A-133.

Records (113):

All records pertaining to the eligibility of each Federal Pell Grant recipient and all fiscal management records must be maintained by the institutions for a period of 3 years or until an acceptable audit has been completed, whichever is later. Selected students will have the information on their applications verified.

Financial Information (120)

Obligations (122):

(Direct Payments for Specified Use) FY 08 \$16,256,000,000; FY 09 est \$36,492,000,000; FY 10 est \$28,654,059,000 - FY 2009 - Includes \$17,114,000,000 in FY 2009 provided under the American Recovery and Reinvestment Act of 2009.

Range and Average of Financial Assistance (123):

For FY 2008, grants will range from \$400-\$4,731; the average grant is \$2,970. For FY 2009, grants will range from \$400-\$5,350; the average grant is estimated at \$3,607. For FY 2010, No Current Data Available.

Program Accomplishments (130):

Fiscal Year 2008: In FY 2008, approximately 6,116,000 recipients are expected. Fiscal Year 2009: Approximately 7,000,000 recipients are expected. Fiscal Year 2010: Approximately 7,590,000 recipients expected.

Regulations, Guidelines, and Literature (140):

The Federal Pell Grant Expected Family Contribution formula is set forth in Part F of the Higher Education Act of 1965 as amended. Regulations governing administration of the Pell Grant Program are found in 34 CFR 600, 668, and 690. The Student Guide; Free Application for Federal Student Aid (no charge); "The Expected Family Contribution Formula"; "The Student Financial Aid Handbook."

Information Contacts (150)

Regional or Local Office (151) :

See Regional Agency Offices. Federal Student Aid Information Center. Telephone: (1-800) 433-3243. Regional Director, Federal Student Aid, the Director of Student Financial Aid at the institution the student wishes to attend, high school guidance counselors, or directors of State agencies.

Headquarters Office (152):

Federal Student Aid Information Center Federal Student Aid (FSA), Department of Education, 400 Maryland Avenue, S.W., Washington, District of Columbia 20202 Phone: (800) 433-3243

Website Address (153):

<http://www.ifap.ed.gov>.

Related Programs (160):

84.007 Federal Supplemental Educational Opportunity Grants; 84.032 Federal Family Education Loans; 84.033 Federal Work-Study Program; 84.037 Perkins Loan Cancellations; 84.038 Federal Perkins Loan Program_Federal Capital Contributions; 84.042 TRIO_Student Support Services; 84.044 TRIO_Talent Search; 84.047 TRIO_Upward Bound; 84.066 TRIO_Educational Opportunity Centers; 84.069 Leveraging Educational Assistance Partnership

Examples of Funded Projects (170):

Not Applicable.

Criteria for Selecting Proposals (180):

The Expected Family Contribution formula is set forth in Part F of the Higher Education Act of 1965, as amended.

ATTACHMENT 2 – Response to Draft of This Alert Memorandum from Risk Management Service (RMS)

September 2, 2009

MEMORANDUM

TO: Keith West
Assistant Inspector General for Audit
Office of Inspector General

FROM: Philip Maestri
Director, Risk Management Service
Office of the Secretary

SUBJECT: Response to Draft Alert Memorandum: Corrections Needed to Information About
Department of Education Programs Included in the *Catalog of Federal Domestic
Assistance*
Control No. ED-OIG/L16-J0075

Thank you for the opportunity to respond to the Office of Inspector General (OIG) Draft Alert Memorandum (memo) cited above. The memo states that its purpose is to inform of a situation needing immediate corrective action: incorrect information about Department of Education (Department) programs included in the *Catalog of Federal Domestic Assistance* (CFDA). This problem affects Department programs administered by various offices in the Department.

The memo explains that, as an official U.S. Government publication, users regard the CFDA as an authoritative source of information about Federal programs. Among users of the catalog are independent auditors engaged to perform single audits required by the Single Audit Act Amendments of 1996. For several months in early 2009, the CFDA website was inoperative while a new CFDA system and website were being developed. The new system is now operative. This system enables Federal agencies to input information online, and the public to access the CFDA online.

The memo advises that errors have come to OIG's attention in the CFDA about aspects of Department programs. OIG expressed concern that users of the CFDA could rely on erroneous information in administering or auditing Department programs, resulting in improper program administration or auditing. In addition, if users relied on such erroneous information to the detriment of meeting program or auditing requirements, the erroneous information might be regarded as mitigating circumstances that could impede the Department from requiring corrective actions. Therefore, it is important that remaining errors be identified and removed from the CFDA without delay.

OIG requested comments on the information presented in the memo and a response on the suggestions provided. Risk Management Service's (RMS) responses on the suggestions and additional comments are provided below.

Suggestion 1.1: Each CFDA section should be reviewed by a knowledgeable program official and Office of General Counsel (OGC) attorney to identify errors in information provided, and any needed corrections.

RMS Response: RMS agrees that each CFDA section should be reviewed by a knowledgeable program official and OGC attorney to identify errors in information provided, and any needed corrections.

Suggestion 1.2: For each section for which corrections are needed, the program office and OGC should coordinate with the Budget Office to promptly attempt to make the corrections in the CFDA system.

RMS Response: RMS agrees that, for each section for which corrections are needed, the program office and OGC should coordinate with the Budget Office (Budget Service, within the Office of Planning, Evaluation and Policy Development (OPEPD)) to promptly attempt to make the corrections in the CFDA system. Since there is a Department CFDA Coordinator in Budget Service (Coordinator) who is responsible for coordinating input to the CFDA system, and the Coordinator advised RMS in response to this draft memo that she will make sure corrections are made if the program offices send her a list of the corrections needed, RMS believes this effort can and should be appropriately coordinated by OPEPD/Budget Service.

Suggestion 1.3: If the design of the CFDA system does not permit needed corrections to be made, ED should request the General Services Administration (GSA) to remove postings of ED programs from the CFDA until system modifications are made that allow for corrections to be made. If such removals are necessary, to provide information to the public in the meantime, ED should ask the General Services Administration to post links to ED internet sites with information about the removed programs.

RMS Response: The Department's CFDA Coordinator advised RMS that, as indicated in the draft memo, the design of the new CFDA system requires "forced choices" under drop-down menus that may not result in accurate information being presented. The Coordinator stated that ED and other Federal agencies have advised GSA multiple times that this is not adequate. In addition, monthly conference calls are conducted for CFDA-users, in which ED has brought-up this issue and advised that OIG is also concerned about it. GSA has replied that this is a new platform and they are still working out the kinks. It is the opinion of the Coordinator that GSA would not be inclined to remove program information from the CFDA. However, the Coordinator indicated that each CFDA entry contains a program office contact, who should be contacted for specific requirements. The Coordinator further advised that the CFDA is not intended to be used as the definitive document on program requirements; the grant documents contain all of the specific requirements. This same opinion was expressed to RMS by one of the program offices in response to this draft memo. Specifically, the program office advised that,

"While we support any efforts to verify and maintain accurate CFDA information and do feel this information is very important, it may be misleading to say wrong information could lead to "improper program administration or auditing." A CFDA entry is not something used for "administering or auditing." The program statutes, regulations, program-specific policy guidance, and OMB circulars govern administration, not the CFDA entry."

RMS notes that, after viewing a sample of the program entries in the CFDA, all of the entries viewed already contain links to Department Internet sites with information about the programs. Taking all of this information into consideration, if it is the case that GSA will not remove information on ED programs from the CFDA, except for the links to information about the programs (either by keeping existing links or adding them if they are not already there) until system modifications allow for corrections to be made, then RMS suggests that a note should be entered in one of the data fields, which permit text entries, that points-out that there is an inaccuracy due to technical restrictions, advises of the accurate data, and recommend seeing the Contact section for more information.

Additional Comments:

RMS agrees that it is important to ensure that all erroneous information in the CFDA regarding Department programs is identified and corrected in a timely manner. However, based on the fact, as indicated in the draft memo, that there is a staff member in Budget Service who is responsible for coordinating input to the CFDA system, who has the background and knowledge of the CFDA system and its issues, and who is most aware of the status of the corrective actions underway, it is RMS' belief that this memo and the corresponding suggestions would be most appropriately coordinated and addressed by OPEPD/Budget Service.

Again, we appreciate the opportunity to provide this response.